



Health Insurance Association of America

**Testimony of**

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**On**

**H.R. 5111, the Servicemembers' Civil Relief Act and  
H.R. 4017, the Soldiers' and Sailors Civil Relief Equity Act**

**Before the**

**Subcommittee on Benefits  
House Committee on Veterans' Affairs**

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## **Introduction**

Mr. Chairman, distinguished members of the Subcommittee, I am Henry R. Desmarais, Senior Vice President of Policy and Information for the Health Insurance Association of America (HIAA). HIAA is the nation's most prominent trade association representing the private health care system. Its nearly 300 members provide the full array of health insurance products, including medical expense, long-term care, dental, disability, and supplemental coverage to more than 100 million Americans.

We are grateful for your invitation to present our views regarding two pending bills. The first is H.R. 5111, the Servicemembers' Civil Relief Act sponsored by Mr. Smith of New Jersey. The second is H.R. 4017, the Soldiers' and Sailors' Civil Relief Equity Act sponsored by Mr. Evans. H.R. 5111 is intended to restate, clarify and revise the Soldiers' and Sailors' Civil Relief Act of 1940. Health insurance reinstatement is among the issues addressed by both the existing statute and H.R. 5111. H.R. 4017 would have the effect of applying the provisions of the Soldiers' and Sailors' Relief Act, including health insurance reinstatement rights, to members of the National Guard called to active service for a period of more than 30 consecutive days if such service is prescribed by the Secretary of the Army or Air Force and is supported by federal funds for a contingency operation authorized by the President or Secretary of Defense. Both H.R. 5111 and H.R. 4017 cover a great deal of ground. However, my remarks today will be more narrowly focused on the health insurance-related implications of these bills.

## **Health Insurance Reinstatement**

Section 704 of H.R. 5111 speaks to the issue of health insurance reinstatement. Under this provision, a servicemember, upon termination or release from military service, is entitled to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated effective on a date during the period of such service. The same reinstatement rights would also apply to any other person who is covered by the insurance by reason of the coverage of the servicemember (e.g., a spouse, child, or other dependent). Further, such reinstatement of health insurance coverage cannot be subject to any exclusion or waiting period for a health or physical condition as long as all of the following conditions are met:

1. The health or physical condition arose before or during the period of military service.
2. An exclusion or a waiting period would not have been imposed for the condition during the period of coverage.
3. If the condition relates to the servicemember, the condition has not been determined to be a disability incurred or aggravated in the line of duty.

Finally, the reinstatement rights do not apply to a servicemember entitled to participate in employer-offered insurance benefits as a result of re-employment rights provided to returning servicemembers under current law. Except for minor changes in wording, all of these provisions are essentially identical to those now contained in the Soldiers' and Sailors' Civil Relief Act.

HIAA certainly agrees with the basic intent of the current health insurance re-instatement protections and, by extension, the similar provisions contained in section 704 of H.R. 5111. We do have a few technical comments, however.

First, the health insurance reinstatement rights clearly are triggered "upon termination or release" from military service. However, there is no statutory requirement that the servicemember exercise these rights within a prescribed period of time. We recommend amending the provision to limit the reinstatement rights to a defined period of time of no more than 90 days. This should give servicemembers an adequate amount of time to act, provide incentives for them to re-acquire their private health insurance coverage without delay, and help guard against the problem of adverse selection.

Such time-limited rights now apply in the case of other benefits provided upon separation from military service. For example, under the Continued Health Care Benefit Program, eligible individuals must apply within 60 days following the loss of entitlement to the Military Health System. Similarly, the Department of Veterans Affairs provides one-time dental care for veterans if they apply within 90 days after separation. Such time-limited rights also apply under non-military situations. For example, a Medicare beneficiary leaving a Medicare+Choice plan

under certain circumstances and returning to traditional Medicare coverage is given up to 63 days to enroll in a Medicare supplemental insurance policy on a guaranteed issue basis. Further, since the reinstatement rights in section 704 are triggered “upon termination or release” from military service, there will be a natural opportunity to fully inform each servicemember of their rights and any applicable timeframes or conditions for exercising those rights. For example, servicemembers, upon discharge or release, can receive informational brochures by the applicable branch of the military and/or appropriate counseling during exit-type interviews. In fact, as I understand it, this already occurs under the DoD Transition Assistance Program.

Second, the plain reading of current law and section 704 of H.R. 5111 is that any condition arising after separation from military service but before application for reinstatement of health insurance could be subject to an exclusion or waiting period. HIAA supports this. Among other things, it provides yet another incentive for prompt exercise of these reinstatement rights by the terminating servicemember.

Lastly, with specific regard to service-connected conditions, many if not most insurance contracts contain language that excludes coverage for injury or illness resulting from any war or act of war, or from service in the military. HIAA assumes that these clauses would continue to be valid under the provisions of H.R. 5111.

Mr. Chairman, I hope these comments are helpful. HIAA appreciates this opportunity to appear before the subcommittee, and we would be pleased to provide further technical assistance as you continue your consideration of H.R. 5111 and H.R. 4017.